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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 1846 OF 2003

Petitioner : Pramod Yadav, son of Bhagwati Charan Yadav, aged about 36 years, Assistant Teacher, Government Middle School, Saraipali, Block Baramkela, District Raigarh (C.G.).

Versus

Respondents : 1. State of Chhattisgarh, through Secretary, Department of School Education, D.K.S. Building, Mantralay, Raipur, District Raipur (C.G.).

2. Block Education Officer, Block Baramkela, District Raigarh (C.G.).

3. Shri Ram Kumar Choudhary, Assistant Teacher, Primary School, Parsadih, (Baramkela) District Raigarh (C.G.).

Shri B.D. Guru, counsel for the petitioner.
Shri Pankaj Shrivastava, Panel lawyer for the respondents/State.
None for the respondent No. 3.

ORAL ORDER

(6th February, 2006)

1. The petitioner, who was working as Assistant Teacher at the Government Middle School, Saraipali, Block Baramkela, District Raigarh was transferred vide order dated 28.5.2003 (Annexure P-1) to the Primary School, Parsadih, Block Baramkela, District Raigarh.

2. The petitioner has filed this petition impugning the transfer order on the ground that the petitioner has been transferred

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to accommodate the respondent No. 3 and as such the same amounts to arbitrary, illegal and malafide exercise of power.

3. This Court, vide order dated 9.7.2003, granted stay of the operation of the impugned transfer order dated 28.5.2003. The petitioner has continued at the old place of posting ever since.

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to whether a particular officer/employee be posted in the interest of administration and public. This Court has limited jurisdiction to interfere in the transfer mater and this Court can interfere only in the case of proved malafide, non-competence of authorities passing the transfer order and not in conformity with the rules and regulations. In the facts and circumstances of the case, it is not necessary to examine the impugned transfer order at this stage, when the interim relief amounting to final relief has been granted earlier. In the facts of the case, the respondents/authorities are directed not to insist upon compliance of the impugned transfer order.

5. In view of the above, the petition is dismissed. However, the respondents/authorities are at liberty to pass appropriate order as to the posting of the petitioner in the public interest and administrative exigency. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu